

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

RECEIVED

USDC, CLERK, CHARLESTON, SC

2014 DEC - 3 P 1:33

Robbie Collins,

)

Plaintiff,

)

C.A. No. 2:13-cv-02700-RMG

v.

)

ORDER

David M. McCall, Warden; Associate
Warden James Dean, Associate Warden
Nolan; Deputy Warden Willie Davis; and
Ann Hallman,

)

Defendants.

)

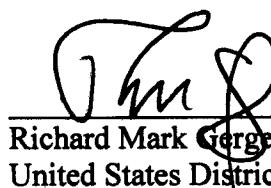
Plaintiff, a state prisoner proceeding pro se and in forma pauperis, brings a civil rights action pursuant to 42 U.S.C. § 1983, challenging prison employees' failure to provide outdoor recreation to inmates and certain changes to the prison grievance policy. According to Plaintiff and responses by Defendants to interrogatories, despite a prison policy requiring that prisoners in the Special Management Unit ("Lock-Up") have access to outdoor recreation for one hour per day, five times per week, he has not been outside for over one year, and the Special Management Unit as a whole has only participated in outdoor recreation three times "since 2013." The matter is before the Court on the Report and Recommendation ("R&R," Dkt. No. 58) of the Magistrate Judge recommending that this Court grant Defendants' Motion for Summary Judgment (Dkt. No. 36) as to the change in the grievance policy claim because Plaintiff failed to exhaust his administrative remedies on that question as required by 52 U.S.C. § 1997e(a) (R&R at 6-7), and deny the motion as to the deprivation of exercise claim. The Court hereby adopts the Report and Recommendation in whole.

Upon the issuance of the R&R, the parties were advised that any written objections to the R&R must be made within 14 days of service, and that in the absence of timely written

objections this Court would provide limited “clear error” review and Plaintiff would waive his right to appeal the judgment of the District Court. (Dkt. No. 37-1). Neither party has filed an objection to the findings and recommendation of the R&R.

The Court has reviewed the R&R, the full administrative record in this matter and the relevant legal authorities. The Court finds that the Magistrate Judge ably and promptly summarized the factual and legal issues and appropriately recommended that the motion be granted in part and denied in part. Therefore, the Court hereby **adopts** the R&R as the order of this Court, **grants** Respondent’s Motion for Summary Judgment as to the grievance procedure, dismisses Plaintiff’s claim regarding the grievance procedure without prejudice, and dismisses defendant Ann Hallman from the action. The case will therefore proceed on the question of whether Collins’ constitutional rights have been violated by the failure of the prison to provide adequate outdoor recreation time.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

December 3, 2014
Charleston, South Carolina